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SENATE

REPORT
99-247

CATHERINE AND ROBERT FOSSEZ

MARCH 5 (legislative day FEBRUARY 24), 1986.—Ordered to be printed

Mr. THURMOND, from the Committee on the Judiciary, submitted the following

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REPORT

[To accompany S. 290]

The Committee on the Judiciary, to which was referred the bill (S. 290) for the relief of Catherine and Robert Fossez, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Catherine and Robert Fossez. The bill provides for the payment of the required visa fees and for appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiaries of the bill are wife and husband both 45 years old. She is a native of Ireland and a citizen of the United Kingdom. The husband is a native and citizen of Belgium. Catherine initially entered the U.S. August 10, 1965, as a lawful permanent resident. She lost that by staying away for more than one year. They have a U.S. citizen son aged 17 years.

A letter, with attached memorandum, dated May 23, 1984, to the Chairman of the Senate Committee on the Judiciary from the Immigration and Naturalization Service with reference to S. 1946, a bill introduced in the 98th Congress for the relief of the same beneficiaries, reads as follows:

71-007 O

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U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, May 23, 1984.

A18-167-968.
A13-390-556.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 1946) for the relief of Robert Fossez and Catherine Fossez, there is attached a memorandum of information concerning the beneficiaries.

The bill would grant the beneficiaries permanent residence in the United States as of the date of its enactment, upon payment of the required visa fees. It would also direct that visa number deductions be made.

Absent enactment of the bill, the beneficiaries, natives of Belgium and Ireland, respectively, are chargeable to the nonpreference portion of the numerical limitation for immigrants.

Sincerely,

For the Commissioner
MARVIN T. ELY

(For Greg Leo, Director, Congressional and Public Affairs).

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1946

The beneficiaries, Robert Fossez, a native and citizen of Belgium, was born on December 9, 1940, and Catherine Fossez, a native of Ireland and a citizen of the United Kingdom, was born on August 23, 1940. They were married on August 14, 1965 at King's Mountain, North Carolina. The date of their marriage was erroneously reported to be August 14, 1968 in our previous report of October 12, 1978. They have one child, John Robert, born in Shelby, North Carolina on August 11, 1967. The couple reside with their son in Greenville, South Carolina. Mr. Fossez is employed as a buyer for the Michelin Tire Corporation in Greenville, South Carolina at a yearly salary of approximately $40,000. Mrs. Fossez is not employed at the present time. They have assets in the United States with a reported approximate value of $53,000.

The beneficiary, Robert Fossez, first entered the United States on October 10, 1963 as a visitor for business and was authorized to remain until April 9, 1964. He then departed on July 9, 1964 and subsequently reentered as a visitor for business on July 25, 1964. He departed on June 9, 1966 and again reentered on July 18, 1966 and was authorized to remain in the United States until January 17, 1967. He was granted extensions of stay until January 16, 1968. An application for labor certification was filed in his behalf by his employer on December 5, 1967 and was ap-

proved on April 1, 1968. On April 18, 1968, after violating the terms of his admission by remaining longer than permitted, the beneficiary was processed as a deportable alien. On July 2, 1968, the beneficiary advised that he was no longer employed in the capacity for which the labor certification was issued and that he would be leaving the United States, which he did on August 17, 1968. On September 10, 1968, the beneficiary advised this Service by mail that he no longer was interested in an immigrant visa and he intended to remain in Belgium. The sixth preference visa petition which had been filed in his behalf was terminated on September 26, 1968.

The beneficiary, Catherine Fossez, initially entered the United States on August 10, 1965 as a lawful permanent resident. She remained in the United States until she departed, with her spouse, on August 17, 1968. She subsequently remained outside the United States for more than one year, thus abandoning her status as a permanent resident.

The beneficiaries last entered the United States on April 17, 1972 as non-immigrant treaty traders and were authorized to remain, with extensions, until April 18, 1975.

On April 26, 1977, the beneficiaries were found to be deportable for having overstayed the terms of their admission. They were granted the privilege of voluntary departure until July 26, 1977. On August 17, 1978, Orders to Show Cause were issued to both beneficiaries. On October 25, 1978, at deportation hearings the beneficiaries admitted deportability and made applications for suspension of deportation. The immigration judge denied the applications, based on their failure to show that deportation would result in undue hardship and their failure to establish seven years physical presence in the United States. They were granted voluntary departure until February 1, 1979 with an alternative of deportation should they fail to depart as required.

The decision of the immigration judge was appealed to the Board of Immigration Appeals on October 25, 1978, but was withdrawn on January 23, 1979.

On May 14, 1979, the beneficiaries filed a motion to reopen. The motion was granted and on November 1, 1979 both were accorded new hearings. They again made applications for suspension of deportation. Their applications were denied by the immigration judge based on their failure to prove their deportation would result in extreme hardship. The judge granted them voluntary departure until February 1, 1980. The transcription of the judge's decision was not completed until on or about November 1, 1981. At that time the judge signed the decision and set a new voluntary departure date of February 1, 1982.

On September 22, 1983, the beneficiaries were requested to report on October 11, 1983, ready for deportation.

On September 30, 1983, the attorney for the beneficiaries contacted this Service, claiming that neither he nor

the beneficiaries had received a copy of the original decision of the immigration judge from their hearings in November 1979. A review of the files indicated that, erroneously, neither the beneficiaries nor their attorney were notified of the final decision. In view of this, on February 24, 1984, this Service filed a motion to reopen the case for the limited purpose of allowing the Service to serve copies of the judge's decision on the beneficiaries and their counsel and to grant them an additional ninety days to depart voluntarily from the United States. On April 18, 1984, the case was reopened and copies of the judge's decision were served on the beneficiaries and counsel. They were granted a ten day period to file an appeal to the decision.

Mr. and Mrs. Fossez were also the beneficiaries of S. 1875, 95th Congress and S. 181, 96th Congress.

Senator Strom Thurmond submitted the following information in support of his bill:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, January 25, 1985.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy, Senate Committee on the Judiciary, Washington, DC.

DEAR AL: I am writing you concerning Robert and Catherine Fossez, beneficiaries of S. 290, a private relief bill which I introduced on their behalf. Robert Fossez is a native and citizen of Belgium, born on December 9, 1940. His wife, Catherine, is a native of Ireland and a citizen of the United Kingdom, born on August 23, 1940. They were married in 1965 at King's Mountain, North Carolina.

The beneficiaries last entered the United States on April 17, 1972 as a treaty trader and spouse. Mr. Fossez initially entered the United States on October 10, 1963, as a visitor for business and was authorized to remain until April 9, 1964; he subsequently departed the United States on July 9, 1964; he re-entered the United States on July 25, 1964, and obtained extensions of his stay until December 1, 1966; he re-entered the United States on July 18, 1966, as a visitor for pleasure and was authorized to remain, with extensions, until January 16, 1968; on April 18, 1968, Mr. Fossez was processed as a deportable alien and subsequently a sixth preference petition was filed on his behalf and approved on May 8, 1968. Mr. Fossez left the United States and returned to Belgium to reside on August 28, 1968. He did not pursue an immigrant visa application and the petition is no longer valid. Mrs. Fossez initially entered the United States on August 10, 1965, as a lawful permanent resident; she remained in the United States until her departure in 1968 after her marriage to Mr. Fossez. She remained outside the United States until 1972, thus abandoning her permanent residence. Mrs. Fossez returned with her spouse in 1972, when he was admitted as a treaty trader. The Fossez family is living at the following address: 101 Camden Lane, Greenville, South Carolina 29605.

I introduced an identical private relief bill on their behalf in the 98th Congress, S. 1946. On September 28, 1984, the Judiciary Com-

mittee reported the legislation favorably to the Senate. On October 3, 1984, it passed the Senate and was referred to the House of Representatives.

In accordance with the Rules of Procedure for the Subcommittee on Immigration and Refugee Policy, I respectfully request a report from the Immigration and Naturalization Service on Robert and Catherine Fossez.

Attached please find other pertinent information. If you need more information, or if I can be of assistance in this matter, please do not hesitate to contact me, or have a member of your staff contact Dick Dargan at 224-5239.

With kindest personal regards and best wishes.

Sincerely,

STROM THURMOND,
Chairman.

BELGIAN EMBASSY,
Washington, DC, December 10, 1984.

Hon. STROM THURMOND,
Senator of South Carolina, The Senate, The Capitol, Washington, DC.

DEAR SENATOR THURMOND: I have been informed that Attorney George Dean Johnson of Spartanburg, South Carolina, has asked you to sponsor a private bill in favor of Mr. and Mrs. Robrecht Fossez of 101 Camden Lane, Greenville, South Carolina 29605.

Such a bill had been previously introduced in September 1983 but has now expired.

In view of the exceptional circumstances of the case, which have been explained to you by Mr. Johnson, I too, would be obliged if you would favourably consider introducing once again a private bill in favor of Mr. and Mrs. Fossez.

Thanking you in advance, I remain, dear Senator Thurmond,

Yours sincerely,

J. RAOUL SCHOUMAKER,
Ambassador of Belgium.

R.W. FOLEY, P.C.,
ATTORNEY AT LAW,
Bowman, GA, November 2, 1984.

Mr. GEORGE DEAN JOHNSON,
Attorney at Law, North Church Street, Spartanburg, SC.

DEAR MR. JOHNSON: Mr. Robert J. Fossez, 101 Camden Lane, Greenville, SC has requested that I write you and set forth the absolute need for the re-introduction of the Private Bill in behalf of himself and his wife. Senator Thurmond introduced the previous bill which will, of course, expire upon the close of the present session of Congress. To protect Mr. and Mrs. Fossez from action to deport them, the re-introducing of the Private Bill must take place on or before February 1, 1985.

Application was made to the U.S. immigration and Naturalization Service for Suspension of Deportation for Mr. and Mrs. Fossez, however, the Immigration Judge who heard the matter, did not agree that they were eligible for this relief. This decision was then

appealed to the Board of Immigration appeals in Washington, D.C. What the decision of this appellate body will be only time will tell, but since the Immigration & Naturalization Service is in opposition to it, it is very possible that it may be denied. In that event, only a Private Bill can save Mr. and Mrs. Fossez from having to leave the U.S. This is in spite of their U.S. born son and their roots here in this country. There is no other administrative relief available to them.

Should this relief be denied them and the Private Bill be re-introduced, then it would be possible to try and get the present employer of Mr. Fossez to make application for an alien labor certification, which is the first step toward making the application for permanent residence.

Yours truly,

R.W. FOLEY.

COST

No cost would result from enactment of this bill.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b)(1), rule XXVI of the Standing Rules of the Senate, it is hereby stated that the committee anticipates that the bill will have no additional direct regulatory impact, inasmuch as it affects just two individuals.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 290) should be enacted.

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